

Project title: An ORDINANCE Relating to Multifamily Tax Exemptions, AMENDING Chapter 3.78 of the Everett Municipal Code .

Council Bill # *interoffice use*
CB 2304 – 27

Agenda dates requested:
Dates requested for council action

Briefing 4/19/2023
Proposed action 4/26/2023
Consent

Action
Ordinance 5/3/2023
Public hearing 5/3/2023
X Yes No

Budget amendment:
Yes X No

PowerPoint presentation:
X Yes No

Attachments:
Ordinance
Housing Development
Incentives Report (See CB
2304-26 supporting
documents)

Department(s) involved:
Planning

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Department head

Administration

Council President

Project: Housing Development Incentives Program (HDIP) – Multifamily Tax Exemption .

Partner/Supplier : N/A

Location: All Mixed Urban (MU), Business (B), and Urban Residential (UR-4) zones

Preceding action: Housing Development Incentives Program WA State Department of Commerce Grant approval

Fund: N/A

Fiscal summary statement:

No direct cost to the city; consultant support was funded through a [grant](#). Changes to the MFTE program will impact the city's revenues and expenditures in several ways, with a generally net positive effect. See Chapter 6.0 of the [report](#) for more information.

Project summary statement:

To implement several actions in the city's housing action plan ("[Rethink Housing](#)"), the city secured a grant from the [Dept. of Commerce](#) for housing action plan implementation. The work program included a study and report on housing incentives currently in use by the city and potential new ones. This ordinance implements recommendations from [Rethink Housing](#), the [Housing Development Incentive Program report](#), and state [MFTE guidance](#).

Multifamily Tax Exemption (MFTE) is a state program (RCW [84.14](#)) available to local governments to incentivize housing, and affordable housing, in urban centers by exempting property tax on improvements related to multifamily housing construction for 8 years, or 12/20 years with income-qualified affordable units set aside for the exemption period.

The proposed changes expand, clarify, and tailor the program to support production of market rate and dedicated affordable housing consistent with recent state legislation ([SB 5287](#)). The ordinance would:

- **Expand the area eligible for the tax exemption.** Instead of a series of areas identified on [maps](#), the area would include all Mixed Urban (MU), Business (B), and Urban Residential (UR-4) [zones](#).
- **Increase the minimum project size** for new construction from 8 to 16 units.
- **Standardize income and rent thresholds** for a 12-year exemption across the whole city (currently they are different in different parts of the city).
- **Add a twelve-year extension option** for projects at the end of a 12 year exemption.
- **Add a 20-year exemption option** for developments with permanent affordable units or affordable ownership units.
- **Require relocation assistance** when affordability requirements expire.
- **Require market studies and displacement mitigation in some cases.**
- **Updates to application and approval processes, reporting, and monitoring.**

The full analysis and recommendation are presented in the [Housing Development Incentive Program report](#) (see chapters 2.0, 6.0, and attachment 6.1)

Recommendation (exact action requested of Council):

An ORDINANCE Relating to Multifamily Tax Exemptions, AMENDING Chapter 3.78 of the Everett Municipal Code.

ORDINANCE NO. _____

An ORDINANCE Relating to Multifamily Tax Exemptions, AMENDING Chapter 3.78 of the Everett Municipal Code.

WHEREAS,

- A.** Everett, along with the Puget Sound Region, is experiencing a housing availability and affordability crisis; Census estimates (American Community Survey Table S2503 for 2021) indicate widespread housing cost burden in the city:
1. 42% of the city's households pay more than 30% of their income for housing costs;
 2. 77% of the city's below median income renter households pay more than 30% of their income for housing costs; and
- B.** The city's comprehensive plan includes the following policies and implementation measures that are supportive of this ordinance:
1. The goal of the Housing Element is to provide sufficient housing opportunities to meet the needs of present and future residents of Everett for housing that is decent, safe, accessible, attractive and affordable. (Housing Goal 4.0)
 2. Consider providing additional incentives to housing developers and homebuilders in return for providing housing that is affordable to lower and moderate-income households. (Housing Policy 4.3.1)
 3. Promote residential densities, property tax incentives and development standards in areas where residential growth is desired that warrant redevelopment investment; and allow a wide range of suitable uses in areas with redevelopment potential. (Economic Development Policy 7.3.6)
 4. Consider inclusionary housing measures, as appropriate, along with affordable housing incentives as necessary to promote affordable housing in the Everett Planning Area. (Housing Policy 4.3.2)
 5. Provide incentives to site affordable housing in planned targeted areas that are within walking distance to public transit lines and transit centers. "Targeted area" means a planned area near transit that provides a mix of housing, retail and services promoting the creation or preservation of affordable housing serving households at or below 80 percent average median income (AMI). (Housing Policy 4.3.10)

6. Extend the multiple family property tax exemption program to areas outside the CBD where additional housing growth is encouraged by the Land Use Element. Ensure that developments that benefit from the property tax exemption are well-designed and constructed of quality materials. (Potential Measure to Implement Housing Policies #16)
- C. The City Council adopted the Rethink Housing Action Plan on October 7, 2021, specifying short-term implementation strategies as follows:
1. S-5. Coordinate a Development Incentives Study to provide guidance on changes and initial incentives for affordable housing construction and preservation.
 2. 2.3: Provide a detailed economic study of potential incentives in urban corridors.
 3. 4.2: Create financial assistance programs for affordable housing preservation.
 4. 4.4: Expand fee waivers for affordable housing.
 5. 4.6: Review and update the Multifamily Tax Exemption (MFTE) program.
 6. 4.7: Review and update development height incentives program for affordable housing units.
- D. The city received a Housing Action Plan Implementation Grant from the Washington State Department of Commerce to complete this action; and
- E. The city commissioned an economic analysis that suggests fee waivers or exemptions, along with other incentives, is an effective incentive for affordable housing construction; and
- F. Exemptions from ad valorem property taxes for multifamily housing encourage increased residential opportunities within designated residential targeted areas, stimulate new construction and rehabilitation of existing buildings, assist in directing future population growth and help to achieve development densities which are more conducive to transit use in designated residential targeted areas.
- G. Everett Municipal Code Chapter 3.78 establishes exemptions from ad valorem property taxation for new multifamily housing in designated residential target areas of the City.
- H. The City Council and State Legislature have amended and updated the requirements relating to multifamily tax exemptions.
- I. On May 3, 2021, the State Legislature passed E2SSB 5287 amending Chapter 84.14 RCW relating to multifamily tax exemptions.
- J. The proposed revisions amend the language relating to tenant displacement, adds a twenty (20) year exemption, adds a process for exemption extension, and other administrative changes.
- K. This ordinance is categorically exempt from the State Environmental Policy Act under WAC 197-11-800(14) and (19); and

L. The Residential Targeted Areas designated by this ordinance are consistent with the designation criteria in RCW 84.14

1. The areas are within an urban center – Everett a Metropolitan Center in the regional geography framework established in VISION 2050;
2. The area lacks sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public who would be likely to live in the Residential Targeted Areas and the city, if the affordable, desirable, attractive, and livable places to live were available;
3. Providing additional housing opportunity, including affordable housing, in the Residential Targeted Areas and the city will help achieve the stated purposes in RCW 84.14.007; and

M. The Residential Targeted Areas are consistent with the designation requirements in EMC 3.78.040, including as amended through this ordinance,

N. On _____, 2023, the Everett City Council held a public hearing, after proper notice, and considered public comment and the entire record related to this ordinance; and

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Chapter 3.78 EMC is hereby amended as shown in Exhibit 1, with strikeout text deleted and underlined text added.

Section 2. The following is provided for reference and may not be complete:

EMC Amended/Repealed by this Ordinance	Ordinance History of EMC Amended/Repealed by this Ordinance
EMC 3.78	(Ord. 3917-22, Ord. 3675-19 § 3, 2019; Ord. 3635-18 (Exh. 1), 2018.)

Section 3. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 4. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 5. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 6. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance

is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

City Clerk

EXHIBIT 1
EVERETT MUNICIPAL CODE SECTION 3.78 AMENDMENTS

3.78.010 Purpose.

It is the purpose of this chapter to provide economic incentives enabling encourage increased residential housing choices and opportunities, including affordable housing opportunities, in keeping with the goals and mandates of the Growth Management Act (Chapter 36.70A RCW) and the goals, objectives, and policies in the city's Comprehensive Plan so as to stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in the city's urban-center targeted residential areas having insufficient housing opportunities. It is intended that this chapter achieve the purpose and meet all required provisions and procedures set forth in Chapter 84.14 RCW to comport with state law. The tax incentive provided by Chapter 84.14 RCW will stimulate the creation of new and enhanced residential structures within the city's urban center and other targeted residential areas, benefiting and promoting the public health, safety and welfare by encouraging residential redevelopment, assisting in supporting future population growth in designated urban centers and other targeted residential areas, increasing the supply of mixed-income multifamily housing opportunities within the city, and achieve development densities which are more conducive to transit use in designated urban centers and other targeted residential areas.

3.78.020 Definitions.

A. "Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low- or moderate-income-households.

B. "Area median income" means the annual median family income for Snohomish County, as published from time to time by the United States Department of Housing and Urban Development (HUD), with adjustments according to household size, which adjustments shall generally be based upon a method used by HUD to adjust income limits for subsidized housing, which for purposes of determining affordability or rents or sale prices shall be based on the average size of household that corresponds to the size and type of the housing unit.

C. "Contract" means the standard form agreement between the owner or, for permanently affordable homeownership, a qualified non-profit organization and the City that contains the terms and conditions, including for each multi-family tax exempt unit as designated according to the Final Certificate, for the duration of the compliance period as a condition of eligibility of the property tax exemption according to this Chapter.

B. "High cost area" means where the third quarter median house price for the previous year as reported by the Washington Center for Real Estate Research at Washington State University for Snohomish County is equal to or greater than one hundred thirty percent of the statewide median house price published during the same time period.

D. E. "Household" means a single person, family, or unrelated persons living together.

E. D. "Local housing standard" means the International Property Maintenance Code as adopted by the city of Everett.

F. E. "Low-income household housing" means housing where monthly costs, including utilities other than telephone, do not exceed thirty percent of the resident's household monthly income and where household monthly income must be eighty percent or less of the Snohomish County median family income adjusted for family size as reported by the U.S. Department of Housing and Urban Development. ~~Single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size for the county where the project is located, as reported by the United States Department of Housing and Urban Development. If Snohomish County is designated a high-cost area under RCW 84.14.010, "low-income household" means a household that has an income at or below one hundred percent of the median household income adjusted for household size for Snohomish County.~~

G. F. "MFTE" means multifamily housing property tax exemption.

H. F. "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the area median ~~household~~ income adjusted for ~~household~~ family size for the metropolitan statistical area ~~county~~ where the project is located, as reported by the United States Department of Housing and Urban Development. ~~If Snohomish County is designated a high-cost area under RCW 84.14.010, "moderate-income household" means a household that is more than one hundred percent, but at or below one hundred fifty percent, of the median household income adjusted for household size for Snohomish County.~~

I. H. "Multi-family housing" and "multiple-unit housing" are used synonymously in this chapter and mean a building having the number of dwelling units specified in Section 3.78.050 that are not designed or used as transient accommodations, not including hotels and motels, and designed for permanent residential occupancy resulting from new construction, rehabilitation or conversion of a vacant, underutilized or substandard building to multi-family housing.

J. G. "Owner" means the property owner of record.

K. I. "Permanent residential occupancy" means multifamily housing that provides either owner ~~occupant housing~~ or rental occupancy accommodations ~~that are leased~~ for a period of at least one month on a non-transient basis. This excludes accommodations that offer occupancy on a transient basis such as hotels and motels that predominately offer rental accommodations on a daily or weekly basis.

L. J. "Planning director" means the planning director for the city ~~of the city of Everett's planning division of the office of community, planning and economic development~~ or authorized designee.

M. "Project" means the multifamily housing or portion of the multifamily housing that is to receive the tax exemption.

N. Nonprofit entities shall mean:

1. Nonprofit as defined by state law that is exempt from income tax under section 501(c) of the federal internal revenue code;
 2. Limited partnership or limited liability limited partnership where a nonprofit that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a general partner or the sole member of the general partner; or
 3. Limited liability company where a nonprofit that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a managing member or the sole member of the general partner.
- K. "Rehabilitation improvements" means modifications to existing structures that are vacant for twelve months or longer at the time of application that are made to achieve a condition of substantial compliance with existing building codes or modification to existing occupied structures which increase the number of multifamily housing units.
- L. "Residential targeted area" means the areas within or coterminous with the city's urban center as defined in this chapter that have been designated by the city council as the residential targeted area in accordance with this chapter and Chapter 84.14 RCW as found by the city council to be lacking sufficient available, convenient, attractive, livable, and desirable residential housing to meet the needs of the public.

Q. "Substantial compliance" means compliance with the applicable building and construction codes and all applicable uniform codes that are typically required for rehabilitation as opposed to new construction.

R. M. "Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services including, but not limited to, shops, offices, banks, restaurants, governmental agencies, transit service, and a mixture of uses and activities that may include housing, recreation, cultural activities, commercial or office uses.

3.78.030 Tax exemption.

The value of new housing construction, conversion, and rehabilitation improvements qualifying under this section is exempt from ad valorem property taxation, as follows:

A. For eight (8) successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate if the property otherwise qualifies for the exemption.

B. For twelve (12) successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate if the property otherwise qualifies for the exemption and meets the conditions in this subsection. For the property to qualify for the twelve-year exemption, the applicant must provide affordable housing pursuant to EMC 3.78.080.

C. For twenty (20) successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate if the property otherwise qualifies for the exemption for the purposes of homeowners only and meets the conditions in this subsection. For the property to qualify for the twelve-year exemption, the applicant must provide affordable housing pursuant to EMC 3.78.085.

D. If, in calculating the minimum proportion of the multi-family housing units in the project for affordable housing in this section, the number for an affordability category contains a fraction, then the minimum number of multi-family housing units for that category shall be rounded up to the next whole number.

E. For any affordable units required under this chapter, the following shall apply:

1. The mix and configuration of affordable units (e.g., studio, one-bedroom, etc.) shall be substantially proportional to the mix and configuration of the total housing units in the project unless otherwise approved by the City.

2. Affordable housing units shall be intermingled with all other units in the development.

3. The quality of construction and finish materials in those affordable units used to qualify for the exemption shall be the same as other housing units in the project.

F. The exemption does not apply to the value of land or to the value of residential or non-residential improvements not qualifying under this chapter, nor does the exemption apply to increases in assessed valuation of land and nonqualifying improvements.

3.78.040 Extension of tax exemption

A. The owner of property that set aside affordable units in exchange for a tax exemption pursuant to 3.78.030 may apply for an extension for an additional twelve successive years. No extension will be granted for property that received a twenty-year tax exemption pursuant to 3.78.030(C).

B. Only one (1) extension may be granted.

C. For the property to qualify for an extension:

1. The property must have qualified for, satisfied the conditions of, and utilized the twelve-year exemption sought to be extended;

2. The owner must timely apply for the extension on forms provided by the City within eighteen (18) months but no later than one month of expiration of the original exemption;

3. The property must meet the requirements of this chapter for the property to qualify for an exemption under 3.78.030(A) or (B) as applicable at the time of the extension application; and

4. The property must provide affordable housing pursuant to EMC 3.78.080 for the extension period or as set forth in the original contract.

D. If an extension is granted by the City, at the end of both the tenth and eleventh years of a twelve-year extension, the applicant or the property owner at that time must provide tenants of affordable units with notification of the applicant's or property owner's intent to provide the tenant with relocation assistance in an amount equal to one (1) month as provided in RCW 84.14.020, as amended.

E. After the expiration of the extension, the applicant or the property owner must provide tenant relocation assistance in an amount equal to one (1) month's rent to a qualified tenant within the final

month of the qualified tenant's lease. To be eligible for tenant relocation assistance under this subsection, the tenant must occupy an affordable unit at the time the exemption expires and must qualify as an eligible household under this chapter at the time relocation assistance is provided.

3.78.050 030 Residential targeted area designation criteria.

Following notice and public hearing, or a continuance thereof, as prescribed in RCW 84.14.040, the city council may, in its sole discretion, designate all of or a portion of the residential targeted area described in the notice of hearing as the residential targeted area. The designated targeted area must meet the following criteria, as found by city council in its sole discretion:

- A. The targeted area is located within the urban center as determined by the city council.
- B. The targeted area lacks sufficient available, attractive, convenient, desirable, and livable residential housing to meet the needs of the public who would be likely to live in the urban center, if such places to live were available.
- C. The providing of additional housing opportunity in the targeted area will assist in achieving the stated purposes of RCW 84.14.007, namely:
 - 1. Encourage increased residential opportunities within the targeted area of the city of Everett; or
 - 2. Stimulate the construction of new multi-family housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing that will increase and improve residential opportunities within the city's urban centers.
- D. In designating the residential targeted area, the city council may also consider other factors, including, but not limited to, which additional housing in the targeted area will attract and maintain a significant increase in the number of permanent residents, whether providing additional housing opportunities for low- and moderate-income households would meet the needs of citizens likely to live in the area if affordable housing were available, whether additional housing in the targeted area will help revitalize the targeted area city's urban center, whether an increased residential population will help improve in the targeted areas supports significant public investment in public transit or a better jobs and housing balance and whether an increased residential population in the targeted area will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020. ~~and~~
- E. The notice for the hearing has met the requirements of RCW 84.14.040.
- F. At any time the city council may, by ordinance, amend or rescind the designation of a residential targeted area pursuant to the same procedural requirements as set forth in this chapter for original designation.

3.78.060 040 Designated residential targeted areas.

The boundaries of the designated residential target areas are located within the urban centers listed below, and as indicated on the maps in Exhibit 1 of this chapter and are as follows:

All parcels within the Mixed Urban (MU), Business (B), and Urban Residential 4 (UR4) zoning districts as defined in Chapter 19.03 EMC and mapped on the City's official zoning map Chapter 19.03.040 Map 3-1, and as amended in the future, are designated as residential targeted areas for purposes of this chapter.

URBAN CENTER	DESIGNATION
Metropolitan Center	Area 1
Evergreen Way	Area 2 (Maps A, B and C)
North Broadway	Area 3
Waterfront Place	Area 4
Riverfront	Area 5

3.78.070 050 Project eligibility standards and guidelines.

A proposed project must meet the following requirements for consideration for an eight-year ~~or~~, twelve-year, or twenty-year property tax exemption:

A. *Location.* The project must be located within one of the residential target areas designated in Section 3.78.060 040 and Exhibit 1.

B. *Size.* ~~The project must include at least eight units of multifamily housing within a residential structure or as part of a mixed-use development. A minimum of four new units must be constructed or at least four additional multifamily units must be added to existing occupied multifamily housing. Existing multifamily housing that has been vacant for twelve months or more does not have to provide additional units so long as the project provides at least four units of new, converted, or rehabilitated multifamily housing.~~ multiple-unit housing as follows:

1. For new construction at least sixteen dwelling units must be constructed.
2. For rehabilitation, the project must rehabilitate or create at least four new dwelling units. Buildings proposed to be rehabilitated must fail to comply with EMC Title 16.
3. Conversion of non-residential buildings to housing: at least four dwelling units must be created.

C. *Permanent Residential Housing.* The project must be a multifamily housing within a residential structure or as part of a mixed-use development in which at least fifty percent of the space within such residential structure mixed use development is provided for permanent occupancy. At least fifty percent of the space designated for multi-family housing must be provided for permanent residential occupancy, and only that portion of the space designated for multi-family housing shall be eligible for the exemption provided for herein.

~~D. *Tenant Displacement.* If the property proposed to be rehabilitated is not vacant prior to application, an applicant must provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate.~~

D. *Rehabilitation.* Property proposed to be rehabilitated must fail to comply with EMC Title 16.

E. *Compliance with Guidelines and Standards.* The project shall be designed to comply with the city's - building, housing, and zoning codes, and any other applicable regulations in effect at the time the application is approved.

F. *Displacement Mitigation.* A project that would result in direct displacement of low-income residential tenants or a community anchor may be conditioned to require reasonable mitigation of that displacement.

G. *Completion.* The project shall be completed within three years from the date of approval of the contract by the City as provided in 3.78.100(A) or by any extended deadline granted by the director as provided in 3.78.100(B).

H. *Contract.* Per RCW 84.14.030(6), the applicant must enter into a contract under which the applicant has agreed to the implementation of the development on terms and conditions satisfactory to the council planning director.

I. *Expiration.* No new applications may be accepted for inclusion into this program after December 31, 2032. No extensions may be granted under 3.78.040 after December 31, 2046.

F. ~~Affordable Housing for Twelve-Year Tax Exemption.~~

3.78.080 Affordable housing for twelve-year tax exemption.

A. Projects which are seeking a twelve-year tax exemption shall provide twenty percent of the units as follows:

a. ~~Area 1 (Metro Everett), Area 2 (Evergreen Way) and Area 3 (North Broadway).~~
~~Projects located within these areas seeking a twelve-year tax exemption shall provide:~~

~~1. (1) Ten percent of the units affordable to households whose income is at or below sixty percent of the median household income for Snohomish County, adjusted for household size for Snohomish County;~~

~~2. (2) Ten percent of the units affordable to households whose income is at or below eighty percent of the median household income for Snohomish County, adjusted for household size for Snohomish County.~~

~~3. Units intended exclusively for owner occupancy: twenty percent of the units affordable to households whose income is at or below eighty percent of the median household income for Snohomish County, adjusted for household size.~~

~~b. Area 4 (Waterfront) and Area 5 (Riverfront). Projects located within these areas seeking a twelve-year tax exemption shall provide:~~

~~(1) Ten percent of the units affordable to low-income households; and~~

~~(2) Ten percent of the units affordable to moderate-income households.~~

~~2. Adjustment for Three-Plus Bedroom Units.~~ The affordable housing requirement can be met for rental occupancy, either partially or fully, for any units with three or more bedrooms that are available to

households whose adjusted income is at or below eighty percent of median household income adjusted for household size for Snohomish County.

~~3. *Owner Occupancy.* In the case of projects intended exclusively for owner occupancy, the affordable housing requirement means residential housing that is within the means of low- or moderate-income households.~~

B. 4. The planning director is authorized to publish income and rent limits, including the use of rent and income calculators, to assist in implementation of these affordable housing requirements.

C. At the end of both the tenth and eleventh years of a twelve-year exemption, the applicant or the property owner at that time must provide tenants of affordable units with notification of the applicant's or property owner's intent to discontinue the affordability provisions and that the tenant is eligible for relocation assistance in an amount equal to one (1) month as provided in RCW 84.14.020.

D. The applicant or the property owner must provide tenant relocation assistance in an amount equal to one (1) month's rent to a qualified tenant within the final month of the qualified tenant's lease. To be eligible for tenant relocation assistance under this subsection, the tenant must occupy an affordable unit at the time the exemption expires and must qualify as an eligible household under this chapter at the time relocation assistance is sought.

3.78.085 Affordable housing for twenty-year tax exemption.

A. *Affordable Housing for Twenty-Year Tax Exemption.* Projects which are seeking a twenty-year tax exemption must provide at least twenty-five percent of the units for homeownership only affordable to households whose income is at or below eighty percent of the median household income for Snohomish County adjusted for household use.

B. *Adjustment for Three-Plus Bedroom Units.* The affordable housing requirement can be met for owner occupancy, either partially or fully, for any units with three or more bedrooms that are available to households whose adjusted income is at or below eighty percent of median household income adjusted for household size for Snohomish County.

C. The planning director is authorized to publish income and rent limits, including the use of rent and income calculators, to assist in implementation of these affordable housing requirements

3.78.090 060 Application procedures.

A property owner who wishes to propose a project for a multifamily property tax exemption shall comply with the following procedures as per RCW 84.14.050:

A. Prior to the application for any building permit any construction of tax-exempt project elements, the applicant shall submit an application to the planning director, on a form established by the planning director, along with required application fees.

B. A complete application shall contain such information as the planning director may deem necessary or useful, and shall include:

1. A brief written description of the project setting forth the grounds for the exemption and identifying the number and type of income-restricted units in the proposed project, if applicable;
2. Preliminary schematic site and floor plans of the multifamily units and the structure(s) in which they are proposed to be located;
3. A statement from the owner acknowledging the potential tax liability when the project ceases to be eligible under this chapter; and
4. Verification by oath or affirmation of the information submitted.

C. For rehabilitation projects, the applicant shall secure verification of property noncompliance under EMC Title 16 and shall also submit an affidavit that existing dwelling units have been unoccupied for a period of twelve months prior to filing the application, and shall secure from the city verification of property noncompliance with the city's local housing standard.

3.78.100 070 Application review and issuance of conditional certificate.

A. Application Review. The planning director ~~may certify as eligible~~ shall review an application for the MFTE program and which is determined to if it complies ~~with the requirements of this chapter and required findings set forth in RCW 84.14.060 A decision to approve or deny an application shall be made within ninety days of receipt of a complete application. An application may be approved subject to such terms and conditions as deemed appropriate by the planning director to ensure the project meets the land use regulations of the city.~~

~~B. A.~~ Approval. The planning director is authorized (pursuant to RCW 84.14.070(1)) to approve, approve with conditions, or deny an application. If an application is approved by the planning director, the approval, together with a contract between the applicant and the city regarding the terms and conditions of the project under this chapter, signed by the applicant, shall be signed by the planning director.

1. A decision by the planning director to approve or deny an application shall be made within ninety days of receipt of a complete application.

C. Conditional Certificate. ~~Once the contract is fully executed, Once approved,~~ the planning director shall issue a conditional certificate of acceptance of tax exemption. The certificate must contain a statement that the property has complied with the required findings in 3.78.100(A). The conditional certificate expires three years from the date of approval unless an extension is granted as provided in this chapter.

D. B. Extension of Conditional Certificate. The conditional certificate may be extended by the planning director for a period not to exceed twenty-four consecutive months. The applicant must submit a written request stating the grounds for the extension, accompanied by a processing fee. An extension may be granted if the planning director determines that:

1. The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;

2. The owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and
3. All the conditions of the original contract between the applicant and the city will be satisfied upon completion of the project.

E. ~~C.~~ Denial of Application and Appeal. If the application is denied, the planning director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within ten days of the denial. An applicant may appeal a denial to the City Council hearing examiner by filing a written appeal within thirty days of notification by the city to the applicant the application is denied. The appeal will be based upon the record made before the planning director with the burden of proof on the applicant to show that there is no substantial evidence on the record to support the planning director's decision. The decision of the City Council hearing examiner in denying or approving the application is final.

3.78.110 ~~080~~ Application for final certificate.

Upon completion of the improvements provided in the contract between the applicant and the city and upon issuance of a temporary or permanent certificate of occupancy, the applicant may request a final certificate of tax exemption. The applicant must file with planning director such information as the planning director may deem necessary or useful to evaluate eligibility for the final certificate and shall include:

- A. A statement of the amount of rehabilitation or construction expenditures made with respect to each multifamily housing unit and the total expenditures made in the rehabilitation or construction of ~~with respect to~~ the entire property;
- B. A description of the completed work and a statement that the rehabilitation improvements or new construction on the owner's property qualify the property for limited exemption under this chapter; ~~of qualification for the exemption;~~
- C. A statement that the work was completed within the required three-year period or any authorized extension; ~~Within thirty days of receipt of all materials required for a final certificate, the planning director shall determine whether the improvements satisfy the requirements of this chapter;~~
- D. If applicable, a statement that the project meets the affordable housing requirements as described in RCW 84.14.020 and as required by this chapter;
- E. A housing market study, representative of current conditions, that includes the comparable rents or sales prices, as applicable, for other multifamily housing in the neighborhood market area, and the market rent or sales price for each of the MFTE units proposed to be designated under this chapter; and
- F. A statement confirming that the documentation on file of the type and organizational structure of the owner, signature block for the owner, and authority of the owner representative that signed the contract is all current and accurate.

3.78.120 ~~090~~ Issuance of final certificate.

Within thirty days of receipt of all materials required for a final certificate in 3.78.110, if the planning director shall determines whether the work completed and the affordability of the units, if applicable, is consistent with the application and the conditional contract approved by the city and is qualified for a

limited tax exemption under Chapter 84.14.RCW. The city shall also determine which specific improvements completed meet the intent of this chapter and required findings of RCW 84.14.060. If the planning director determines that the project has been completed in accordance with the contract between the applicant and the city and has been completed within the authorized time period or approved extension, the city shall, within ten days following the expiration of the thirty-day period specified in this section, ~~Section 3.78.080~~, file a final certificate of tax exemption with the Snohomish County assessor.

A. ~~Denial and Appeal~~. The planning director shall notify the applicant in writing that a final certificate will not be filed if the planning director determines that:

1. The improvements were not completed within the authorized or extended time period;
2. The improvements were not completed in accordance with the contract between the applicant and the city;
3. The owner's property is otherwise not qualified under this chapter;
4. The owner and the planning director cannot come to an agreement on the allocation of the value of the improvements allocated to the exempt portion of rehabilitation improvements, new construction and multi-use new construction; or
5. If applicable, the project does not meet the affordable housing requirements as set forth in this chapter.
6. The applicant does not agree to contract conditions (Section 3.78.070(G)).

B. Appeal. Within thirty days of notification by the city to the owner of the planning director's denial of a final certificate of tax exemption, the applicant may file a written appeal with the hearing examiner specifying the factual and legal basis for the appeal.

3.78.130 ~~100~~ Annual compliance review and report.

A. ~~Within thirty days after the first anniversary of the date of filing the final certificate of tax exemption and each year thereafter~~ No later than February 1 of each calendar year, for the tax exemption period, the property owner shall file a notarized declaration with the planning director indicating the following:

1. A statement of occupancy, and vacancy of the multifamily units during the previous year, and monthly rent charged for each dwelling unit of the projects that receive the limited tax exemption under this Chapter during the previous twelve months;
2. A certification that the property continues to be has not changed use and, if applicable, that the property has been in compliance with the contract with the city, and if applicable, been in compliance with affordable housing requirements;
3. A description of any subsequent improvements or changes to the property after issuance of the certificate of tax exemption; and
4. If applicable, that the property has been Information demonstrating that the property has been in compliance with the affordable housing requirements of this chapter; and

5. For the affordable units, the income of each household at the time of initial occupancy and their current income; and

6. Any additional information requested regarding the units receiving a tax exemption and meeting any reporting requirements under Chapter 84.14 RCW.

B. City staff shall also conduct on-site verification of the declaration. The city shall maintain a verification program for declarations. Failure by the recipient of the tax exemption to submit an annual declaration, supported by accurate documentation, may result in the tax exemption being canceled.

C. B. The city shall annually report by December 31st of each year to the Washington State Department of Commerce information as set forth in RCW 84.14.100(2) consistent with the requirements of Chapter 84.14 RCW.

3.78.140 ~~110~~ Cancellation of tax exemption.

If at any time the planning director determines the owner has not complied with the terms of the contract or with the requirements of this chapter, or that the property no longer complies with the terms of the contract or with the requirements of this chapter, or for any reason no longer qualifies for the tax exemption, the tax exemption shall be canceled and additional taxes, interest and penalties imposed pursuant to state law. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined. If the owner intends to convert the multifamily housing to another use, or, if applicable, the owner intends to discontinue compliance with the affordable housing requirements as required in this chapter, or any other condition to exemption, the owner must notify the planning director and the Snohomish County assessor within sixty days of the change in use or intended discontinuance. Upon such change in use or discontinuance, the tax exemption shall be canceled, and additional taxes, interest and penalties imposed pursuant to applicable state law.

A. *Effect of Cancellation.* If a tax exemption is canceled due to a change in use or other noncompliance, the planning director shall notify the Snohomish County assessor of the cancellation within thirty days after the notification of the property owner or qualified non-profit organization, or upon an unsuccessful appeal under subsection B.

1. The Snohomish County assessor shall ~~comply with applicable state law to~~ impose additional taxes, interest and penalties on the property, and a priority lien may be placed on the land, pursuant to state law and RCW 84.14.110(1)(a), (b) and (c);

2. The Snohomish County assessor must correct assessment and tax rolls in the manner provided for omitted property under RCW 84.40.080. The value of the new housing construction, conversion and rehabilitation improvements added to the rolls is considered as new construction for the purposes of chapter 84.55 RCW. The owner may appeal the valuation to the Snohomish County Board of Equalization under Chapter 84.48 and RCW 84.40.038.

B. *Notice and Appeal.* Upon determining that a tax exemption is to be canceled, the planning director shall notify the property owner, or qualified non-profit organization if applicable, by certified mail, return receipt requested. The property owner, or qualified non-profit organization if applicable, may appeal the determination by filing a notice of appeal with the hearing-examiner within thirty days, specifying the factual and legal basis for the appeal on which the determination of cancellation is alleged to be erroneous. The hearing examiner will conduct a hearing at which the applicant and the city will be

heard, and all competent evidence received. The hearing examiner will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received.

3.78.150 120 Appeals to the Hearing Examiner.

A. The City Council shall hear appeal of a decision of the planning director that the owner is not entitled to a conditional certificate of tax exemption, filed within thirty days of notification by the city to the applicant, and as set forth in Section 3.78.100(E).

B. The city's land use hearing examiner is hereby provided jurisdiction to hear appeals of the decisions of the planning director ~~under this chapter. Said appeals shall be as follows:~~

1. Appeal of a decision of the planning director that the owner is not entitled to a final certificate of tax exemption, filed within thirty days of notification by the city to the owner of denial of a final certificate of tax exemption, and as set forth in Section 3.78.120(B).
2. Appeal of a cancellation of tax exemption, filed within thirty days of the notification by the city to the owner of cancellation, and as set forth in section 3.78.140(B).

C. B. The ~~hearing examiner's following~~ procedures shall apply to hearings under this chapter to the extent they are consistent with the requirement of this chapter and Chapter 84.14 RCW. The ~~hearing examiner~~ appeal body shall give substantial weight to the planning director's decision and the burden of overcoming the weight shall be on the appellant. The decision of the ~~examiner~~ appeal body constitutes the final decision of the city. An aggrieved party may appeal the decision to superior court under RCW 34.05.510 through 34.05.598 if the appeal is properly filed within thirty days of notification by the city to the appellant of that decision.

